

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

_____)	
UNITED STATES OF AMERICA,)	
)	
v.)	CRIMINAL ACTION
)	NO. 05-1700-CBS
FRANK MERLINO,)	
Defendant,)	
_____)	

MEMORANDUM OF PROBABLE CAUSE AND
ORDER ON THE GOVERNMENT'S MOTION FOR DETENTION
August 5, 2005

SWARTWOOD, C.M.J.

I. Nature of the Offense and the Government's Motion

On July 21, 2005, a Criminal Complaint was filed, charging Frank Merlino ("Mr. Merlino"), with absconding from a home confinement placement with pre-release status at the Coolidge House Community Corrections Center in Boston, Massachusetts, in violation of 18 U.S.C. §751(a).

At Mr. Merlino's initial appearance on August 4, 2005, in connection with this Complaint, he was advised of his right to a preliminary examination in accordance with Fed. R. Crim. P. 5.1 and the Government moved for a detention hearing in accordance with 18 U.S.C. §§3142(f)(1)(A) (crime of violence), (f)(1)(D) (Mr. Merlino is charged with a felony and has been convicted of two or more offenses described in paragraphs (A) through (C) of Section

3142(f)(1), or two or more state or local offenses that would have been offenses described in paragraphs (A) through (C) of such section if federal jurisdiction has existed) and (f)(2)(A)(risk of flight).

After Mr. Merlino was advised of his rights at his initial appearance, he waived his right to a probable cause hearing and assented to an Order of Detention, but reserved his right to a detention hearing in the future.

V. Order of Detention Pending Trial

In accordance with the foregoing memorandum,
IT IS ORDERED:

1. That Mr. Merlino be committed to the custody of the Attorney General or his designated representative, for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal;

2. That Mr. Merlino be afforded a reasonable opportunity for private consultation with counsel; and

3. On order of a court of the United States or on request by an attorney for the Government, the person in charge of the corrections facility in which Mr. Merlino is detained and confined shall deliver Mr. Merlino to an authorized Deputy United States Marshal for the purpose of any appearance in connection with a court proceeding.

RIGHT OF APPEAL

THE PERSON OR PERSONS DETAINED BY THIS ORDER MAY FILE A MOTION
FOR REVOCATION OR AMENDMENT OF THE ORDER PURSUANT TO 18 U.S.C. §
3145 (b) .

/s/Charles B. Swartwood, III
CHARLES B. SWARTWOOD, III
CHIEF MAGISTRATE JUDGE